



State of California
Employment Training Panel

Arnold Schwarzenegger, Governor

December 23, 2009

Angie Fox
Manager, Learning and Development
Genentech Inc.
1000 New Horizons Way, MS 110A
Vacaville, CA. 95688

Dear Ms. Fox

Enclosed is our final audit report relative to the Employment Training Panel Agreement No. ET05-0218 for the period November 1, 2004 through October 31, 2006.

Also enclosed is a demand letter for payment of costs disallowed in the audit report. Payment is due upon receipt of this letter. If you wish to appeal the audit findings, you must follow the procedure specified in Attachment A of the audit report.

We appreciate the courtesy and cooperation extended to our auditors during the audit. If you have any questions, please contact Stephen Runkle, Audit Manager, at (916) 327-4758.

Sincerely,

Original signed by:

Stephen Runkle
Audit Manager

Enclosures

Cc: Heather McMahan, Training Coordinator Manager

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GENENTECH, INC.

Agreement No. ET05-0218

Final Audit Report

For The Period

November 1, 2004 through October 31, 2006

Report Published December 23, 2009

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AUDITOR'S REPORT

Summary

We performed an audit of Genentech Inc., Agreement No. ET05 - 0218, for the period November 1, 2004 through October 31, 2006. Our audit pertained to training costs claimed by the Contractor under this Agreement. Our audit fieldwork was performed during the period January 12, 2009, through January 13, 2009, except for Finding No. 1 for which our report is dated February 3, 2009.

The Employment Training Panel (ETP) paid the Contractor a total of \$602,758.40. Our audit supported that \$597,394.40 is allowable. The balance of \$5,364 is disallowed and must be returned to ETP. The disallowed costs resulted from two trainees who had unsupported class/lab training hours.

AUDITOR'S REPORT (continued)

Background

Founded in 1976, Genentech, Inc. (Genentech) is an international biotechnology company that manufactures and commercializes protean-based biotherapeutic products for serious or life-threatening medical conditions. In 2004, the company began expansion of its biotechnology manufacturing site in Vacaville, California.

This Agreement was the third between Genentech and ETP. To support and operate its expanded Vacaville facility, Genentech needed to hire and train 500 new employees over a five year period. Thus, this training project sought to enroll newly hired individuals and prepare them to work in the Vacaville facility. The project was also the first of a series of Agreements to participate in the successful ETP pilot program to allow the use of electronic record keeping for the tracking of ETP training. During development of this Agreement, ETP worked closely with Genentech to ensure compatibility of their Learning Management System (LMS) with ETP record keeping requirements. The Agreement provided for training in Advanced Technology, Business Skills, and Continuous Improvement, as well as Management and Manufacturing Skills.

This Agreement allowed Genentech, Inc. to receive a maximum reimbursement of \$1,120,000 for retraining 400 employees. During the Agreement term, the Contractor placed 211 trainees and was reimbursed \$602,758.40 by ETP.

Objectives, Scope, and Methodology

We performed our audit in accordance with *Government Auditing Standards*, promulgated by the United States General Accounting Office. We did not audit the financial statements of Genentech, Inc. Our audit scope was limited to planning and performing audit procedures to obtain reasonable assurance that Genentech, Inc. complied with the terms of the Agreement and the applicable provisions of the California Unemployment Insurance Code.

Accordingly, we reviewed, tested, and analyzed the Contractor's documentation supporting training cost reimbursements. Our audit scope included, but was not limited to, conducting compliance tests to determine whether:

- Trainees were eligible to receive ETP training.
- Trainees received the minimum training hours specified in the Agreement [variable per Chart 1] and Training documentation supports that trainees received the training hours reimbursed by ETP and met the minimum training hours identified in the Agreement [Variable Reimbursement Chart].

AUDITOR'S REPORT (continued)

- Trainees were employed continuously full-time for 90 consecutive days after completing training, and the 90-day retention period was completed within the Agreement term.
- Trainees were employed in the occupation for which they were trained and earned the minimum wage required at the end of the 90-day retention period.
- The Contractor's cash receipts agree with ETP cash disbursement records.

As part of our audit, we reviewed and obtained an understanding of the Contractor's management controls as required by *Government Auditing Standards*. The purpose of our review was to determine the nature, timing, and extent of our audit tests of training costs claimed. Our review was limited to the Contractor's procedures for documenting training hours provided and ensuring compliance with all Agreement terms, because it would have been inefficient to evaluate the effectiveness of management controls as a whole.

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| Conclusion | As summarized in Schedule 1, the Summary of Audit Results, and discussed more fully in the Finding and Recommendation Section of our report, our audit supported \$597,394.40 of the \$602,758.40 paid to the Contractor under this Agreement was allowable. The balance of \$5,364 was not earned according to the terms of the Agreement and must be returned to ETP. |
|------------|---|

| | |
|--------------------------------------|--|
| Views of Responsible Officials | The audit finding was discussed with Angie Fox, Manager Learning and Development, and Jennifer Giles, Training Specialist at an exit conference held on January 13, 2009 and via telephone and e-mail on January 28, 2009. Ms Fox agreed to bypass the draft report and proceed to the final audit report. |
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The issuance of your final audit report had been delayed by the audit unit. Therefore, ETP waived the accrual of interest for the disallowed costs beginning February 4, 2009 through the issue date of this final audit report. The interest waiver (adjustment) was \$274.86, which was deducted from the total accrued interest.

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| Audit Appeal Rights | If you wish to appeal the audit findings, it must be filed in writing with the Panel's Executive Director within 30 days of receipt of this audit report. The proper appeal procedure is specified in Title 22, California Code of Regulations, Section 4450 (attached). |
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AUDITOR'S REPORT (continued)

Records

Please note the ETP Agreement, Paragraph 5, requires you to assure ETP or its representative has the right, "...to examine, reproduce, monitor and audit accounting source payroll documents, and all other records, books, papers, documents or other evidence directly related to the performance of this Agreement by the Contractor... This right will terminate no sooner than four (4) years from the date of termination of the Agreement right or three (3) years from the date of the last payment from ETP to the Contractor, or the date of resolution of appeals, audits, or litigation, whichever is later."

Stephen Runkle
Audit Manager

Fieldwork Completion Date: January 13, 2009, except for Finding No. 1 for which our report is dated February 3, 2009.

This report is a matter of public record and its distribution is not limited. The report is intended for use in conjunction with the administration of ETP Agreement No. ET05-0218 and should not be used for any other purpose.

SCHEDULE 1 – Summary of Audit Results

GENENTECH, INC.
AGREEMENT NO. ET05-0218
FOR THE PERIOD
NOVEMBER 1, 2004 THROUGH OCTOBER 31, 2006

| | <u>Amount</u> | <u>Reference*</u> |
|--------------------------------------|-----------------------------|-------------------|
| Training Costs Paid By ETP | \$ 602,758.40 | |
| Costs Disallowed: | | |
| Unsupported Class/Lab Training Hours | 5,364.00 | Finding No. 1 |
| | <u>5,364.00</u> | |
| Total Costs Disallowed | <u>\$ 5,364.00</u> | |
| Training Costs Allowed | <u><u>\$ 597,394.40</u></u> | |

* See Finding and Recommendation Section.

FINDING AND RECOMMENDATION

FINDING NO. 1 – Training records maintained by Genentech Inc. (Genentech) did not support paid training hours for two Job No. 1 trainees. Therefore, we disallowed \$5,364 (\$4,800 + \$534) in training costs claimed for these trainees.

Unsupported
Class/Lab Training
Hours

Title 22 California Code of Regulations (CCR), Section 4440.3 (b) states the Contractor shall not be reimbursed for the cost of training that starts prior to the term of the ETP agreement. Furthermore, if the Contractor starts training before the ETP Agreement has been signed by both parties, it must nevertheless adhere to the terms and conditions set forth in the proposed ETP Agreement along with any terms or conditions imposed by the Panel and agreed to by the Contractor's representative at the time of Panel approval.

Paragraph 2(b) of the Agreement states: "Reimbursement for class/lab and videoconference training for trainees in job number 1 will be based on the total actual number of training hours..., up to the maximum specified in Chart 1, providing the minimum and no more than the maximum hours are met." Exhibit A, Chart 1, page 5, required that Job No. 1 trainees complete between 24 to 200 class/lab hours.

Paragraph 4 of the Agreement states: "Training reimbursement is based on an average number of hours to obtain competency as cited in Exhibit B and hours will not be paid if the trainee is given credit for completing a related course or the course requirement is waived."

Training and employee records maintained by the Contractor show that all or part of the training hours reported for Trainee Nos. 1 and 2 were waived (based on prior experience and/or as having been delivered prior to the start of the Agreement), and therefore were not completed per the terms of the Agreement. The Contractor's representative stated that the reporting error had occurred due to an oversight in Genentech's upload process. Furthermore, Genentech records did not support that these trainees received any other ETP approved training within the term of the Agreement.

Genentech reported that Trainee No. 1 had completed 200 hours of ETP approved training, which was reimbursed at the Advanced Technology rate approved by the Panel for this Agreement of \$24 per hour. However, Genentech records show that all 200 hours reported to ETP for Trainee No. 1 were waived. Thus, Genentech records supported zero training hours paid by ETP for Trainee No. 1.

FINDING AND RECOMMENDATION (continued)

Genentech reported that Trainee No. 2 had completed 26.5 hours of ETP approved training. This total included 17.5 hours reimbursed at the Advanced Technology of \$24 per hour, and 9 hours reimbursed at the class/lab rate approved by the Panel for this Agreement of \$16 per hour. However, Genentech records show that 4.5 of the 26.5 hours reported to ETP for Trainee No. 2 were waived. Thus, Genentech records supported only 22 of the 26.5 training hours paid by ETP for Trainee No. 2, which is below the minimum hours required by the Agreement.

Recommendation Genentech must return \$5,364 to ETP. In the future, The Contractor should ensure that training records support hours submitted for reimbursement from ETP.

ATTACHMENT A – Appeal Process

4450. Appeal Process.

- (a) An interested person may appeal any final adverse decision made on behalf of the Panel where said decision is communicated in writing. Appeals must be submitted in writing to the Executive Director at the Employment Training Panel in Sacramento.
- (b) There are two levels of appeal before the Panel. The first level must be exhausted before proceeding to the second.
 - (1) The first level of appeal is to the Executive Director, and must be submitted within 30 days of receipt of the final adverse decision. This appeal will not be accepted by the Executive Director unless it includes a statement setting forth the issues and facts in dispute. Any documents or other writings that support the appeal should be forwarded with this statement. The Executive Director will issue a written determination within 60 days of receiving said appeal.
 - (2) The second level of appeal is to the Panel, and must be submitted within 10 days of receipt of the Executive Director's determination. This appeal should include a statement setting forth the appellant's argument as to why that determination should be reversed by the Panel, and forwarding any supporting documents or other writings that were not provided at the first level of appeal to the Executive Director. If the Panel accepts the appeal and chooses to conduct a hearing, it may accept sworn witness testimony on the record.
 - (A) The Panel must take one of the following actions within 45 days of receipt of a second-level appeal:
 - (1) Refuse to hear the matter, giving the appellant written reasons for the denial; or
 - (2) Conduct a hearing on a regularly-scheduled meeting date; or
 - (3) Delegate the authority to conduct a hearing to a subcommittee of one or more Panel members, or to an Administrative Law Judge with the Office of Administrative Hearings.
 - (B) The Panel or its designee may take action to adopt any of the administrative adjudication provisions of the Administrative Procedures Act at Government Code Section 11370 *et seq.*, for the purpose of formulating and issuing its decision. Said action may take place at the hearing, or in preliminary proceedings.
 - (C) Upon completion of the hearing, the record will be closed and the Panel will issue a final ruling. The ruling may be based on a recommendation from the hearing designee. The ruling shall be issued in a writing served simultaneously on the appellant and ETP, within 60 days of the record closure.
- (c) The time limits specified above may be adjusted or extended by the Executive Director or the Panel Chairman for good cause, pertinent to the level of appeal.
- (d) Following receipt of the Panel's ruling, the appellant may petition for judicial review in Superior Court pursuant to Code of Civil Procedure Section 1094.5. This petition must be filed within 60 days from receipt of the Panel's ruling.

Authority: Section 10205(m), Unemployment Insurance Code; Section 11410.40, Government Code.

Reference: Sections 10205(k), 10207, Unemployment Insurance Code.

Effective: April 15, 1995

Amended: December 30, 2006